AES/jt2 12/23/2015

FILED
12-23-15
10:52 AM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop a Successor to Existing Net Energy Metering Tariffs Pursuant to Public Utilities Code Section 2827.1, and to Address Other Issues Related to Net Energy Metering.	Rulemaking 14-07-002 (Filed July 10, 2014)

ADMINISTRATIVE LAW JUDGE'S RULING ACCEPTING STAFF PROPOSAL TO CREATE A RESERVATION SYSTEM UNDER THE CURRENT NET ENERGY METERING TARIFF INTO THE RECORD AND SEEKING COMMENT ON STAFF PROPOSAL

This ruling accepts into the record of this proceeding an Energy Division Staff Proposal to create a system for reserving capacity under the current net energy metering tariff and seeks comment on the proposal.

Comment Schedule

Parties may file comments to the Energy Division *Staff Proposal to Create a System for Reserving Capacity under the Current Net Energy Metering Tariff*, attached to this ruling as Attachment 1, not later than January 18, 2016. Reply comments may be filed not later than January 25, 2016.

Parties may comment on all aspects of the Staff Proposal, with specific attention to the questions set out below. In the instances where parties disagree with the Staff Proposal, they should provide specific reasons. Parties may make their own proposals, and must provide an explanation for the proposal and examples of how the proposal would work in practice, if relevant.

Responses should address the questions below specifically. Responses to parts of the staff proposal should identify the section number of the Staff Proposal that is being responded to.

Comments must be no more than 15 pages. Reply comments must be no more than 10 pages.

After comments and reply comments have been reviewed, I may then issue a ruling requesting additional comments.

Questions for Comment

1. Should the duration of the proposed reservation system be limited to approximately six months in each Investor Owned Utility (IOU) territory as described in the Staff Proposal? Why or why not? If you do not support a six-month duration, please discuss when you believe the IOUs should be directed to begin accepting applications and why.

2. Do you believe project completion deadlines should be established for residential and/or commercial customers? Why or why not?

    a. If you support establishing a project completion deadline for either residential or commercial customers, or both, please describe the length of the deadlines you propose.

    b. In your response, please discuss the extent to which you agree with the Staff Proposal's recommendation against instituting a project completion deadline (beyond the statutorily mandated July 1, 2017 deadline) for commercial customers but establishing a six month project completion deadline (no later than July 1, 2017) for residential customers.

    c. One implication of Staff's proposal to not have a project completion deadline for commercial customers is that cancelled or stalled projects remain in the queue. In your discussion of this aspect of the Staff Proposal, discuss whether the benefit that installers will have sufficient time (12 months) to install a commercial project outweighs the potential issue that non-viable projects will take up reservation space. Responses may also

address how to administratively deal with reservations for applications, without project completion deadlines, that do not materialize before July 1, 2017 to ensure the NEM cap is achieved.

IT IS RULED that:

1. The Energy Division Staff Proposal to *Create a System for Reserving Capacity under the Current Net Energy Metering Tariff* is accepted into the record of this proceeding.

2. Comments of not more than 15 pages may be filed and served not later than January 18, 2016.

3. Reply comments of not more than 10 pages may be filed and served not later than January 25, 2016.

4. Dated December 23, 2015, at San Francisco, California.

/s/ ANNE E. SIMON
Anne E. Simon
Administrative Law Judge

ATTACHMENT 1

Staff Proposal to Create a System for Reserving Capacity under the Current Net Energy Metering Tariff

Energy Division Staff Proposal to Create a System for Reserving Capacity under the Current Net Energy Metering Tariff

1. Background

California Public Utilities Code (PU Code) Section 2827 (c)(4)(B) requires that the current Net Energy Metering (NEM) tariff be available to eligible customers until each investor-owned utility (IOU) reaches its NEM program limit (5% of aggregate customer peak demand) or July 1, 2017, whichever is earlier.[1] In 2014, the Commission adopted Decision (D.) 14-03-041, which established a 20-year transition period for all complete NEM applications that are submitted before an IOU reaches its program limit.[2] The transition period allows eligible customers to remain on the current NEM tariff for 20 years from their original year of interconnection. All eligible NEM applications received after an IOU reaches its program limit (or July 1, 2017) will take service under the NEM successor tariff or standard contract that the CPUC is directed to develop by PU Code Section 2827.1 (b) and is currently under consideration in Rulemaking (R) 14-07-002. The PU Code also directs each IOU to submit a monthly report to the Commission of its progress toward its NEM program limit.[3] Based on reported installation rates and projected growth, it is very likely that SDG&E, PG&E and SCE will all reach their program limits prior to July 1, 2017; however it is impossible to predict the exact date for any utility with certainty.

A key component in determining the cost-effectiveness of a solar installation is the rate structure that the customer will be enrolled in once the system is installed and interconnected. It is important that solar developers and customers be able to confirm if a project will be eligible to take service under the current NEM tariff or the successor tariff/standard contract early in the project cycle, in order to determine the financial feasibility of a project. Under the current interconnection process, a project is eligible for the current NEM tariff if the customer submits a complete interconnection application, including the final building inspection, prior to the date that the IOU reaches its NEM program limit.[4] This means that, as the IOUs get closer to reaching

---

[1] The statute also provides minimum megawatt nameplate generating capacity numbers for the program limit for each IOU: SDG&E – 607 MW; SCE – 2,240 MW; PG&E – 2,409 MW.

[2] D.14-03-041 states: "Eligibility for the transition period is based on the date of submission of the documentation needed to complete a NEM interconnection application, including the final building inspection. Customers that complete their application prior to reaching the date that the successor tariff is implemented will be eligible for the transition period once they receive their Permission to Operate letter." (D.14-03-041 Footnote at page 23)

[3] Pub. Util. Code Section 2727 (c)(4)(C).

[4] D.14-03-041 at 23.

their NEM program limits, there is likely to be uncertainty as to whether or not some customers will be interconnected in time to take service under the current NEM tariff; these customers may not know which tariff they will be eligible for until after their systems have been installed and inspected.

2. Energy Division Staff Proposal

Energy Division staff proposes that the Commission direct the IOUs to create a reservation system that will allow customers to reserve capacity under the current NEM tariff before their systems are installed. Staff believes that creating a reservation system is necessary to create certainty for customers and the solar industry by allowing market participants to make accurate decisions regarding the financial feasibility of their projects early in the project cycle. Without a reservation system, the solar industry and its customers will only be able to make an educated guess as to the date that each utility will reach its NEM program limit, based on historical rates of progress reported by the IOUs. As each utility moves closer to its program limit, customers and developers will rush to complete installations and submit applications in an attempt to interconnect before the current NEM tariff closes. This has the potential to result in customers who have made a financial commitment based on the belief that they would receive service under the current NEM tariff, finding out that they are ineligible only after their systems have been installed. It also has the potential to cause significant market disruption as customers may be unwilling to move forward with solar investments unless they have a guarantee as to which NEM tariff or contract they will be enrolled in. Staff's recommendations are organized into four key aspects of a reservation system:

1. Start Date
2. Reservation Application Requirements and Submission
3. Project Completion Deadlines
4. Ensuring that Capacity on the Reservation List Does Not Exceed Utility NEM Program Limits

2.1 Start Date

Staff recommends that a reservation system be limited in duration in order to minimize the cost of administration and to prevent capacity being reserved by speculative projects. We also recognize that a reservation system must be implemented far enough in advance of each IOU reaching its NEM program limit that solar customers and developers are able to reserve capacity towards the beginning of the project cycle. According to the California Solar Energy Industries Association (CALSEIA), the period between the date a customer signs a contract with a solar provider and the date of installation is typically between one and three months for a residential system. The timeline for commercial projects is generally longer. CALSEIA estimates that a medium sized commercial system with no complications takes

approximately six months to design, permit and install.[5] Based on these numbers, staff recommends that each IOU begin accepting applications to reserve capacity under the current NEM tariff when it is approximately six months from meeting its program limit.

As of November 17, 2015, SDG&E had just over 150 MW of remaining capacity available under the current NEM tariff, with over 17 MW installed in October,[6] and is on track be the first IOU to reach its NEM program limit. Based on current interconnection rates and projected growth, CALSEIA estimates that SDG&E will likely reach its NEM program limit sometime between February 2016 and June 2016.[7] Given the time it will take to design and implement a reservation system and the progress that SDG&E is making towards reaching its program limit, staff recommends that SDG&E be directed to open its reservation system as soon as possible.

As of October 31, 2015, PG&E and SCE had 682.4 MW and 932.7 MW of remaining capacity, respectively.[8] Based on current interconnection rates and projected growth, CALSEIA estimates that PG&E will likely reach its NEM program limit in October 2016 and SCE will reach its program limit in April 2017. As they reach their program limits, CALSEIA forecasts that PG&E and SCE will each be interconnecting an average of 60 MW per month.[9] Based on this estimate, staff recommends directing PG&E and SCE to open reservation systems in their territories when they have 360 MW of remaining capacity under the current NEM tariff, which will likely equate to approximately six months from the dates they are expected to reach their program limits.

We recognize that an alternative option would be to direct all three IOUs to implement a NEM reservation system as soon as possible and establish a deadline within a reasonable timeframe by which the IOUs would be required to begin accepting applications. Establishing an earlier start date would allow applicants to reserve capacity earlier in the project cycle, however it would increase the time and cost of administering the system. Staff believes that limiting the duration of the reservation system to approximately six months will reduce the cost and complexity of

---

[5] CALSEIA Motion to Create a Reservation System for the Transition to a Successor Tariff at 2.

[6] As reported by SDG&E on its public Net Metering Dashboard http://www.sdge.com/clean-energy/net-energy-metering/overview-nem-cap.

[7] CALSEIA Motion to Create a Reservation System for the Transition to a Successor Tariff at 3.

[8] Remaining capacity as reported by PG&E and SCE in their NEM Program Limit Reports; PG&E AL 4738-E and SCE AL 3306-E.

[9] CALSEIA Motion to Create a Reservation System for the Transition to a Successor Tariff at 6.

implementation while still providing applicants with the certainty needed to move forward with solar investments.

2.2 Reservation Application Requirements and Submission

The purpose of creating a reservation system is to allow customers who are actively moving forward with the installation of an eligible system to reserve capacity under the current NEM tariff. In order to limit the ability of purely speculative projects to reserve capacity, staff believes it is important to establish an application process that requires applicants to demonstrate that they have made a commitment to purchase (or enter into a power purchase agreement or lease agreement) and install an eligible system. The California Solar Initiative (CSI) program requires applicants to submit either a copy of an "Executed Agreement of Solar Energy System Purchase and Installation," for customer owned systems, or a copy of an "Executed Alternative System Ownership Agreement," for third-party owned systems, in order to reserve an incentive.[10] Staff recommends adopting this requirement for applicants to reserve capacity under the current NEM tariff. Staff believes that submitting a signed contract for the installation of a system at a specific site is sufficient to demonstrate an applicant's commitment to move forward with a project and prevent capacity being reserved by speculative projects.

Staff opposes instituting a reservation fee, even if such a fee is refundable, as part of the application process. Staff believes that a reservation fee would add unnecessary complexity to the reservation system and increase the administrative burden and cost for both applicants and the IOUs. Including a reservation fee in the application process would require the additional steps of submitting the fee, processing the fee, tracking the project and refunding the fee after interconnection. Developers would need to either cover the application fees for all projects or ask their customers to pay the fee, thereby adding to the overall cost of the installation. While some customers and large developers may be willing to tie up funds in a reservation system, other customers and small developers may not have the financial resources to do so. Furthermore, the administrative burden of processing and refunding application fees would add complexity and cost to the IOUs' existing interconnection procedures while producing little benefit. Staff believes that limiting the complexity and administrative burden for both applicants and the IOUs will be essential to the success of a reservation system and the ability of all market actors to participate. Because applicants can sufficiently demonstrate that they have made a commitment to install their systems by providing a signed contract, staff believes that a reservation fee should not be required as part of a system to reserve capacity under the current NEM tariff.

---

[10] California Solar Initiative Program Handbook at page 53: http://www.gosolarcalifornia.org/documents/CSI_HANDBOOK.PDF.

Staff believes that the process for reserving capacity under the proposed reservation system should be integrated into the current NEM interconnection application process as much as possible. We recognize that the IOUs have made considerable efficiency improvements to their interconnection processes and believe that a reservation system can be implemented without negatively impacting these gains. Staff proposes that, in order to reserve capacity under the current NEM tariff prior to installation, applicants should use each IOUs' existing interconnection process to submit a signed contract along with all documents that are currently required with a NEM application, excluding the final building inspection. The IOU would then review the application and, when it has been approved, issue an email confirmation to the applicant stating the amount of capacity reserved for that project under the current NEM tariff. Once the installation and inspection have been completed, the applicant would submit the final building inspection to the IOU in order to receive permission to operate. Staff believes that the process for reserving capacity under the current NEM tariff can be incorporated into the existing NEM interconnection application process without adding significant administrative burden or negatively impacting interconnection timelines. The steps of this proposed process are outlined in Attachment A.

2.3 Project Completion Deadlines

Under the proposed reservation system, when an application to reserve capacity is approved, the IOUs would issue an email confirmation to the applicant stating the amount of capacity reserved for that project under the current NEM tariff. The Commission may want to consider requiring that this reservation confirmation also state a project completion deadline, which would indicate the date by which the applicant must submit a complete NEM interconnection application, including the final building inspection, in order to remain eligible to take service under the current NEM tariff. While instituting project completion deadlines for a NEM reservation system would reduce the potential for speculative or cancelled projects to take up reserved capacity, it would also add administrative complexity and cost to a program that is designed to be of limited duration. Additionally, existing statute establishes July 1, 2017 as the latest date that the IOUs are required to offer service under the current NEM tariff,[11] making this date a de facto project completion deadline.

Staff recommends against instituting a project completion deadline (beyond the statutorily mandated July 1, 2017 deadline) for commercial customers. While CALSEIA estimates that a medium sized commercial system with no complications typically takes six months from project conception to interconnection, they also acknowledge that more

[11] If the IOU does not reach its NEM program limit before this date.

complex projects often take significantly longer.[12] In order to allow sufficient time for large and complex commercial projects, non-residential customers would need to be given a minimum of 12 months, from the date of receiving a confirmed capacity reservation, to complete the installation. Because, the PU Code establishes July 1, 2017 as a final deadline after which the IOUs are no longer required to offer service under the current NEM tariff,[13] a 12 month deadline would be moot for any application submitted on or after July 1, 2016. Staff believes that establishing a project completion deadline for non-residential projects would be unnecessary given the limited duration that it would be applicable. Similar to our discussion of reservation fees, staff believes that requiring a signed contract would be sufficient to prevent speculative commercial projects from reserving capacity under a reservation system.

Staff believes that, due to the shorter installation timelines required for residential projects, establishing a project completion deadline will be a necessary tool to remove cancelled or stalled projects from the queue. We propose a six month project completion deadline, but no later than July 1, 2017, for residential customers (excluding installations on multifamily properties). If an applicant has not submitted a complete interconnection application, including the final building inspection, within six months of receiving a confirmed capacity reservation from the IOU (or July 1, 2017, whichever is earlier), the project will lose its reserved capacity and no longer be eligible to take service under the current NEM tariff. Based on CALSEIA's estimate that average timelines for residential installations range from one to three months, staff believes that six months is a reasonable timeframe for residential installations and would allow even most large and complex residential systems to be completed within the reservation period. Allowing residential projects to have additional time by relying on the statutorily mandated July 1, 2017 deadline, could result in cancelled projects taking up capacity that could otherwise be reserved by those that are actively moving forward with installation.

In order to limit the administrative complexity and cost of implementing a NEM reservation system, staff recommends that the IOUs establish an explicit policy stating that requests for extension of the project completion deadline for residential projects will not be accepted under any circumstances. Staff believes that a six month reservation period is a generous timeframe to complete a residential installation and notes that any project that is unable to be completed by its deadline will still be eligible to apply for interconnection under the successor tariff/contract. If extension requests are permitted as part of the reservation system, each request would need to be assessed

[12] CALSEIA Motion to Create a Reservation System for the Transition to a Successor Tariff at page 2.

[13] If the IOU does not reach its NEM program limit before this date.

on an individual basis, requiring significant administrative time. Staff believes that a NEM reservation system should be designed to be as simple and efficient to implement as possible and therefore recommends against allowing extension requests to established project completion deadlines.

2.4 Ensuring that Capacity on Reservation List Does Not Exceed Utility NEM Program Limits

In order to ensure that a reservation system is in compliance with existing statute, it is essential that the combined capacity of interconnected systems and projects with a confirmed capacity reservation in each IOU does not exceed the IOU's NEM program limit. PU Code Section 2827 (c)(4)(A) states that the IOUs are required to make the current NEM tariff available to "eligible customer-generators, continuously and without interruption, until such times as the large electrical corporation reaches its net energy metering program limit or July 1, 2017, whichever is earlier" but are not required to continue providing service under the current NEM tariff after their program limits are reached.

In addition, in D.14-03-041, the Commission stated, "Eligibility for the transition period is based on the date of submission of the documentation needed to complete a NEM interconnection application, including the final building inspection. Customers that complete their application prior to reaching the date that the successor tariff is implemented will be eligible for the transition period once they receive their Permission to Operate letter. The date of that letter indicates the year in which a system was interconnected for the purposes of the transition."[14]

Staff recommends that each IOUs' NEM program limit will be reached once the combined capacity of interconnected systems and systems with confirmed reservations reaches 5% of aggregate customer peak demand for each IOUs. Projects that submit an application after the available capacity under the current NEM tariff is depleted will be offered a position on a waitlist. If sufficient reserved capacity to cover the next project in the waitlist queue forfeits its position in the reservation system, the next waitlisted project may be able to take service under the current NEM tariff. In the meantime, any waitlisted projects may choose to give up their spot in the waitlist and interconnect under the successor tariff or contract. Staff recommends that, once the capacity of an IOU's interconnected systems reaches its program limit, the IOU notify all customers on its waitlist.

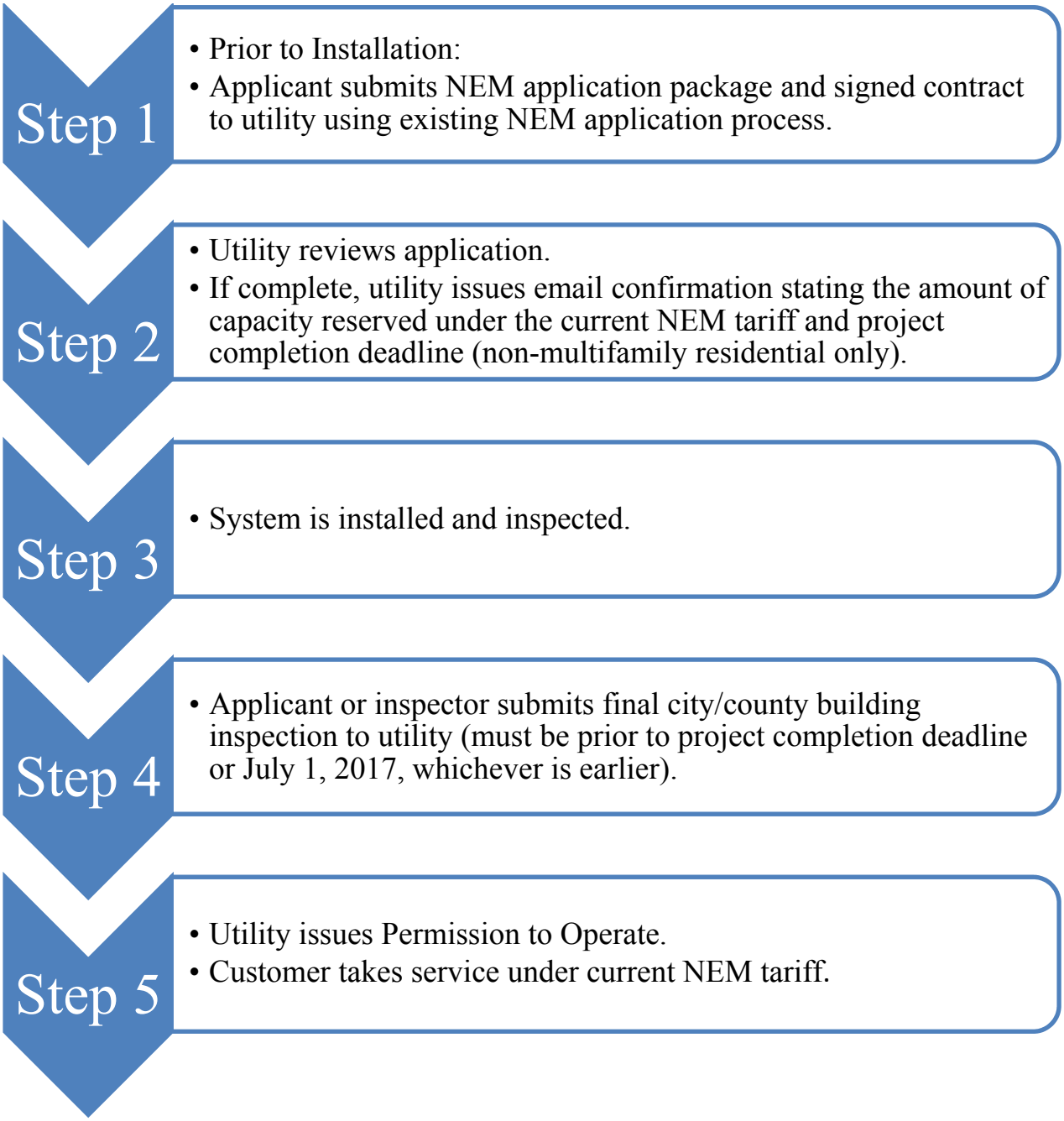
3. Conclusion

As the IOUs approach their NEM program limits, Energy Division staff believes that creating a NEM reservation system is necessary in order to provide certainty to the solar industry and its customers as to which tariff or contract a project will be eligible to

[14] Page 23 at Footnote 49.

take service under prior to installation. The rate structure under which a project enrolls can significantly affect its financial feasibility; therefore, it is reasonable to allow customers to reserve capacity under the current NEM tariff early in the project cycle. Staff recommends that a NEM reservation system be designed to be limited in duration and be as simple and efficient to implement as possible.

Attachment A: Proposed Process for Integrating NEM Reservation System into Current NEM Interconection Application Process



(End of Attachment 1)